

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

# GEORGE JOHNSON,

CASE NO. C16-1738JLR

Plaintiff,

## ORDER

V.

DONALD P. WANG, et al.,

## Defendants.

## I. INTRODUCTION

Before the court is *in personam* Defendant Donald P. Wang's response to the court's July 23, 2018, order to show cause. (Resp. (Dkt. # 42).) Mr. Wang is proceeding *pro se*. (See Dkt.) The court has considered Mr. Wang's response, the relevant portions of the record, and the applicable law. Being fully advised, the court **DECLINES** to enter default and **ORDERS** the parties to file an agreed pretrial order no later than Friday, July 27, 2018, at 12:00 p.m. The matter of sanctions remains pending. (See OSC (Dkt. # 39).)

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## II. BACKGROUND

On July 23, 2018, the court held a pretrial conference in this matter, and Mr. Wang did not appear. (See 7/23/18 Min. Entry (Dkt. # 38).) Counsel for Plaintiff George Johnson represented that based on their conversations with Mr. Wang, Mr. Wang was aware of the conference and his need to attend. Moreover, the court notified Mr. Wang of the conference date and the potential consequences for failing to appear. (See Sched. Order (Dkt. # 23); 7/11/18 Order (Dkt. # 37) (citing Local Rules W.D. Wash. LCR 11(c)); Dkt. (6/27/18 entry)); Local Rules W.D. Wash. LCR 11(c) (stating that the court may consider a failure to “appear at [the] pretrial conference . . . an abandonment or failure to prosecute or defend diligently, and judgment may be entered against that party”). In addition, instead of filing an agreed proposed pretrial order as the court’s scheduling order directs, Mr. Wang filed his own proposal a day late. (See Sched. Order at 2 (setting July 23, 2018, as the date for the parties’ agreed pretrial order); Def. Pretrial Order (Dkt. # 41) (filed on July 24, 2018).) Because of his failure to appear, the court ordered Mr. Wang to show cause why the court should not enter default against him and issue sanctions of \$2,000.00. (See OSC at 2-3.)

In addition to failing to appear, Mr. Wang has displayed a habit of blaming others—his former attorney, the opposing party, and the court—for his untimeliness. For example, in moving to set aside default earlier in the case, Mr. Wang contended that he had not timely answered the complaint because of his prior attorney. (Default Resp. (Dkt. # 18) at 2-3.) Mr. Wang now blames opposing counsel for his late-filed proposed

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1 pretrial order. (Def. Pretrial Order at 1 (stating that “counsel for [Mr. Johnson] is  
 2 unwilling or was unable to incorporate [Mr. Wang’s] latest changes”)).

3       On July 24, 2018, Mr. Wang responded to the order to show cause regarding the  
 4 issue of default. (*See* Resp.) In addition to reciting the applicable legal standards, Mr.  
 5 Wang states that his failure to attend was nothing “more than a simple misreading of  
 6 [court] orders that were changing fairly rapidly.” (*Id.* at 3.) In his declaration, he states  
 7 that he believed “the court was going to hold the pre-hearing conference after [the  
 8 parties] submitted the pretrial order,” and that “[a]t the time of the hearing[, he] was  
 9 putting the final touches [on his] version of the pretrial order.”<sup>1</sup> (Wang Decl. ¶ 1.) He  
 10 further states that he does “not know why [he] did not read th[e] email” from June 27,  
 11 2018, which informed him that the court had reset the pretrial conference. (*Id.*; *see also*  
 12 Dkt. (6/27/18 entry).)

13       As for his tardy pretrial order, Mr. Wang explains that “[w]hen the court moved up  
 14 the deadline for the prehearing, it did not notify the parties that the deadline for the  
 15 pretrial order would have to be moved up as well.” (Resp. at 4.) However, the court’s  
 16 scheduling order—issued on May 15, 2017—stated that the agreed pretrial order was due  
 17 on July 23, 2018—a date that has never changed. (*See* Sched. Order at 2; Dkt.) And Mr.  
 18 Wang does not explain why he filed a separate pretrial order rather than an agreed order  
 19 as required. (*See generally* Resp.; Wang Decl.; Sched. Order at 2.)

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 22       <sup>1</sup> Mr. Wang’s declaration shows that he signed it in Seattle, Washington on July 24, 2018.  
 (See Wang Decl. (Dkt. # 42-1) at 2.) If Mr. Wang is indeed in Seattle, that is all the more reason  
 the court should not excuse his failure to attend.

### III. ANALYSIS

Even though Mr. Wang is proceeding *pro se*, he is responsible for following the court’s orders and all applicable rules. *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). His failure to read emails informing him of court dates does not divest him of that responsibility. Nevertheless, entry of default is inappropriate at this time. *See* Fed. R. Civ. P. 55(a) (stating that the clerk must enter default when the party against whom relief is sought “has failed to plead or otherwise defend”). Mr. Wang’s response and late-filed pretrial order demonstrate that he intends to continue defending. *See id.* But the court once again cautions Mr. Wang that it expects him to comply with all applicable orders and rules. The court further reminds Mr. Wang that his trial brief and proposed findings of fact and conclusions of law are due on Monday, August 6, 2018. (*See* Sched. Order at 2.) Because those filings are due only one week before trial—which begins on Monday, August 13, 2018, at 1:00 p.m.—the court will be unable to accept any late filings. (*See id.* at 1.) Should Mr. Wang fail to meet those required deadlines, the court will once again consider entering default or judgment against him. *See* Local Rules W.D. Wash. LCR 11(c).

Mr. Wang's response to the possible imposition of monetary sanctions is due on Thursday, August 2, 2018, at 12:00 p.m. (*See* OSC at 2.) At that time, the court will consider the appropriate amount of sanctions against Mr. Wang for failing to attend the pretrial conference and to meet court-imposed deadlines.

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Finally, the court orders the parties to file a single proposed pretrial order no later than Friday, July 27, 2018, at 12:00 p.m. If the parties cannot agree on the items in the order, they should state—in a single proposal—the issues on which they disagree.

## IV. CONCLUSION

For the foregoing reasons, the court DECLINES to enter default at this time and ORDERS the parties to file an agreed proposed pretrial order no later than Friday, July 27, 2018, at 12:00 p.m. Mr. Wang's response to the imposition of sanctions is due no later than Thursday, August 2, 2018, at 12:00 p.m.

Dated this 25th day of July, 2018.

John P. Blunt

JAMES L. ROBART  
United States District Judge